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Security Council

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Letter dated 2 December 2016 from the Permanent Representative of Spain to the United Nations addressed to the Secretary-General

I have the honour to forward to you the concept note for the Security Council high-level open briefing on the theme "International judicial cooperation in countering terrorism" that will be held on 12 December 2016.

I would be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Román **Oyarzun**

* Reissued for technical reasons on 7 December 2016.

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Annex to the letter dated 2 December 2016 from the Permanent Representative of Spain to the United Nations addressed to the Secretary-General

Concept note for the Security Council high-level open briefing on the theme "International judicial cooperation in countering terrorism", to be held on 12 December 2016

1. Background

Terrorism is a multidimensional phenomenon which requires global measures in order to be fully addressed. The transnational nature of terrorism, exacerbated by the use of information and communication technologies, demands a coordinated response from all States in the international community. Cooperation in judicial matters is an indispensable requirement in order to overcome the challenges faced in the investigation and prosecution of terrorist acts, particularly when the various elements of a case (evidence, suspects, witnesses) are spread throughout the jurisdictions of several States.

This is especially relevant in the light of the imminent threat posed by the return of foreign terrorist fighters. The phenomenon of returnees is a challenge to the capacities of States to counter terrorism and prosecute terrorists. In preventing and facing this threat, not only are the States targeted by terrorist activities involved, but also the neighbouring ones, as well as the States of origin, transit and return of foreign terrorist fighters. In the investigation and prosecution phase, issues such as the nationality of the perpetrators and the victims, or the State in which the crime was committed, are relevant. Furthermore, relevant evidence is often electronic, thus making its procurement and preservation difficult.

Recent events show us that judicial cooperation is still insufficient in the face of a relentless terrorist threat. In some cases, this is due to a lack of capacities and means, but it has also been fostered by the existence of slow and complicated proceedings for cooperation, normally a product of former times, when the dimension of the terrorist threat and the degree of response required by it were less dramatic.

Recently, high-level meetings on terrorism with Interior and Finance Ministers of Member States were held. This allowed the development of measures on police enforcement as well as on financing of terrorism, as set out in Security Council resolutions 2178 (2014), on foreign terrorist fighters, 2199 (2015) and 2253 (2015). However, there has never been a meeting of Ministers of Justice on international cooperation in countering terrorism, nor has there been a resolution on international judicial cooperation.

2. Content of the draft resolution

The draft resolution which, if agreed, we intend to open for co-sponsorship to the wider membership of the United Nations, aims to have elements on reinforcement of the mechanisms for mutual legal assistance, with references to new information technologies, like the internet, to facilitate the processing, gathering and sharing of evidence with judicial authorities, with special focus on cooperation

orientated towards obtaining and preserving e-evidence, and reinforcing the central authorities network. It also seeks to strengthen police-to-police cooperation in several areas, including through the reinforcement of the INTERPOL I-24/7 communication network, as well as the development of regional networks of points of contact like the one approved by the Council of Europe in the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, which is operative since 1 December 2016.

3. Format of the meeting

An open ministerial briefing of the Security Council under the presidency the Minister of Justice of Spain, Rafael Catalá Polo. Invitations have been addressed to his counterparts.

4. Briefers

- Executive Director of the Counter-Terrorism Committee Executive Directorate, Jean-Paul Laborde.
- Deputy Director of Public Prosecutions, Kenya, Dorcas Oduor.
- Executive Secretary of the International Institute for Justice and the Rule of Law, Malta, Robert Strang.